



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
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July 16, 1968

Hon. Marjorie Taber Ogle
Executive Secretary
Board of Vocational Nurse
Examiners
1008 Sam Houston Building
Austin, Texas 78701

Opinion No. M-258

Re: Authority of the Board of
Vocational Nurse Examiners
to place an additional
charge upon candidates for
re-examination, and to in-
crease the application fees
for reciprocity candidates.

Dear Mrs. Ogle:

You have requested the opinion of this office regard-
ing the above matters. In this connection you have provided us
with the following information:

"H.B. 1238 passed by the 60th Legisla-
ture, Regular Session, amended Section 9
of the Vocational Nurse Act (Article 4528c,
Vernon's Texas Civil Statutes) to increase
the application and examination fee from
\$10 to \$15.

"The purpose for this increase in fee
is to offset the additional expense of ad-
ministering the State Board Test Pool examina-
tion which this Board proposes beginning with
the October, 1968 examination. It is estimated
that such additional expense to the agency will
amount to at least \$5 per candidate.

"Our law as it is amended will take care
of testing for all new candidates; however,
we ask your opinion as to whether we would
be authorized under the Vocational Nurse Act
to charge an additional \$5 for failures, past

or future, who desire to rewrite the examination. This type candidate requires the same expense as would a first-time candidate.

"Also, we would like to know if we would be authorized to charge a \$15 application fee for reciprocity candidates seeking license in Texas which amount would be comparable to the fee charged Texas nurses. Reciprocity applicants are not generally required to write examination again in Texas. They now pay \$10."

An administrative agency of the State has only the power that is conferred upon it by the Legislature, and the question of what may be charged by the Board is determinable only by examination of the particular authority delegated by the Legislature. Section 9, Article 4528c, Vernon's Civil Statutes, provides, in part, as follows:

"The following shall be the fees charged by the Board under this Act: application and examination fee, Fifteen Dollars (\$15); fee of Ten Dollars (\$10) for licensing existing Vocational Nurses in accordance with Section 6 hereof; annual renewal fee, Two Dollars (\$2); penalty for late annual renewal fee, Two Dollars (\$2); fee for license by reciprocity, Ten Dollars (\$10); fee for accrediting training programs, Twenty-five Dollars (\$25).

". . ."

You are therefore advised that it is the opinion of this office that the Board does not have the authority to charge an additional \$5 for failures who desire to re-take the examination for licensing. However, we would point out that if, pursuant to the power of the Board to make rules and regulations under Section 4(b), Article 4528c, the Board were to adopt a rule requiring a new application from persons

Mrs. Marjorie Taber Ogle, page 3 (M-258)

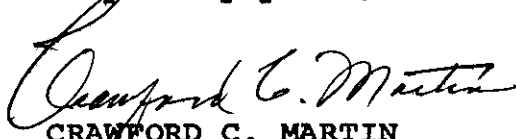
desiring to re-take the examination, the \$15 fee required by Section 9 would be again payable.

With regard to your question concerning an increase in the application fee for reciprocity candidates seeking license in Texas, your attention is directed to the specific provisions of Section 9, supra, whereby the Legislature has adopted a \$10 fee for such licensing. The Board has no authority to vary the license fee so established.

S U M M A R Y

The various fees collectible by the Board of Vocational Nurse Examiners are established by Sec. 9, Art. 4528c, V.C.S. The Board may neither increase nor vary these established fees. The Board may, by proper rule or regulation, require a new application, together with fee, from persons desiring to re-take the professional examination.

Very truly yours,


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